

JUL 27 2005

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

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BRANDON WAYNE HEDRICK,)	
)	
Petitioner,)	Civ. Action No. 7:03CV0219
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
WILLIAM PAGE TRUE, Warden)	By: Samuel G. Wilson,
Sussex I State Prison,)	Chief United States District Judge
)	
Respondent.)	

Appellant Brandon Wayne Hedrick stands convicted of capital murder and has been sentenced to death. This court denied Hedrick's petition for writ of habeas corpus and Hedrick appealed to the Court of Appeals for the Fourth Circuit. Hedrick wrote to the Court of Appeals asking that court to deny his appeal so that he could have an execution date set. The Court of Appeals appointed an attorney, Randy V. Cargill, as guardian ad litem for Hedrick and remanded the case for the limited purpose of having this court inquire into Hedrick's mental state to determine whether or not the Court of Appeals should dismiss his appeal in order that a date be set for Hedrick's execution as Hedrick requested.

This court set a hearing on the issue for August 1, 2005. Mr. Cargill has reported that he has met with Hedrick, corresponded with him in writing, and has spoken with him by telephone. According to Mr. Cargill:

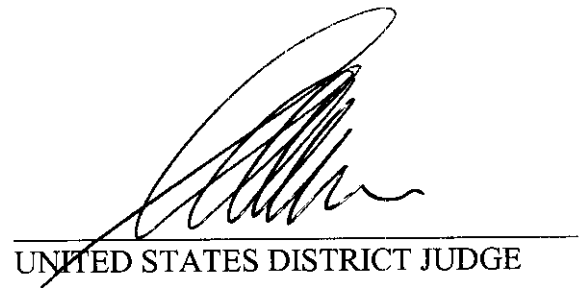
Most recently, Mr. Hedrick has advised [Mr. Cargill] in writing and by telephone that he has changed his mind and wishes to continue with his appeal. He has indicated that he has consulted with his attorney on this issue and is certain that he wishes to pursue his appeal. Further, he has asked that he not be required to appear for hearing in this matter as the burdens of travel are onerous for him.

The respondent, through the Senior Assistant Attorney General, has responded that he has

spoken with Hedrick's counsel, Robert Lee, and has represented to the court "that neither the petitioner nor the Warden is requesting a hearing on petitioner's competence to waive appeals in light of Mr. Cargill's report of Hedrick's decision now to continue with his appeal in the Fourth Circuit."¹

Based upon Hedrick's currently expressed intention to proceed with his appeal, it appears to this court that the limited purpose of the remand is moot and that the Court of Appeals should not dismiss Hedrick's appeal.

ENTER: This 21st day of July, 2005.



UNITED STATES DISTRICT JUDGE

¹The court has attached the letters from Mr. Cargill and the Senior Assistant Attorney General as appendices.